

## **§ 958.19**

(1) The Judicial Officer may affirm, reduce, reverse, or remand any determination about a penalty or assessment by the Presiding Officer.

(2) The Judicial Officer shall not consider any argument or objection that was not raised in the hearing unless the interested party demonstrates that the failure to raise the argument or objection before the Presiding Officer was caused by extraordinary circumstances.

(3) If any party demonstrates to the satisfaction of the Judicial Officer that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence, the Judicial Officer may remand the matter to the Presiding Officer for consideration of such additional evidence.

(c) *Decision of Judicial Officer.* The Judicial Officer shall promptly serve each party to the appeal with a copy of his or her decision. The decision of the Judicial Officer constitutes final agency action and becomes final and binding on the parties.

## **§ 958.19 Form and filing of documents.**

(a) Every pleading filed in a proceeding under this part must contain a caption setting forth the title of the action, the docket number (after assignment by the Recorder), an accurate designation of the document, and the name, address, and telephone number of the party on whose behalf the paper was filed. It shall also be signed by the party or party representative submitting the document.

(b) The original and three copies of all pleadings and documents in a proceeding conducted under this part shall be filed with the Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, Virginia 22201-3078. Normal Recorder business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or daylight saving time. The Recorder will transmit a copy of each document filed to the other party, and the original to the Presiding Officer.

(c) Pleadings or other document transmittals to, or communications with, the Postal Service, other than to the Recorder under paragraph (a) of this section, shall be made through the

## **39 CFR Ch. I (7-1-14 Edition)**

Determining Official or designated Postal Service attorney. If a notice of appearance by a representative is filed on behalf of the respondent, pleadings or document transmittals to, or communications with, the respondent shall be made through his or her representative.

## **§ 958.20 Service of notice of docketing and hearing, other documents.**

Unless otherwise specified, service of a Notice of Docketing and Hearing or any other document under this part shall be effected by registered or certified mail, return receipt requested, or by personal delivery. In the case of personal service, the person making service shall, if possible, secure from the party or other person sought to be served, or his or her agent, a written acknowledgement of receipt, showing the date and time of such receipt. If the person upon whom service is made declines to acknowledge receipt, the person effecting service shall execute a statement, indicating the time, place and manner of service, which shall constitute evidence of service.

## **§ 958.21 Computation of time.**

In computing any period of time provided for by this part, or any order issued pursuant to this part, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day. Except as otherwise provided in these rules or an applicable order, prescribed periods of time are measured in calendar days rather than business days.

## **§ 958.22 Continuances and extensions.**

Continuances and extensions may be granted under these rules for good cause shown.

## **§ 958.23 Settlement.**

Either party may make offers of settlement or proposals of adjustment at any time. The Determining Official has the exclusive authority to compromise or settle any determinations of liability for civil penalties, clean-up costs and/or damages for mailing hazardous materials and/or related violations